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6 Attorneys for Defendant
7 JOHN KONTRABECKI

8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 In re
12 CENTRAL EUROPEAN INDUSTRIAL
DEVELOPMENT COMPANY, LLC dba
13 CEIDCO,
14 Debtor,
15 THE KONTRABECKI GROUP LP,
16 Debtor.

17 ARON M. OLINER, et al.,
18 Plaintiffs,
19
20 vs.
21 JOHN KONTRABECKI, et al.,
22 Defendants.
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Bk No. 02-30419-11-DM

Chapter 11

Adv. No. 03-3264 DM

Bk. No. 02-30421-11-DM
Chapter Number: 11

[Administratively Consolidated]

**DECLARATION OF MICHAEL J. BETZ IN
SUPPORT OF DEFENDANT JOHN
KONTRABECKI'S REPLY MEMORANDUM OF
POINTS AND AUTHORITIES IN SUPPORT OF HIS
MOTION FOR SANCTIONS AGAINST PLAINTIFFS
TERMINATING THE ADVERSARY PROCEEDINGS**

Date: December 18, 2009
Time: 2:30 p.m.
Dept: Courtroom 22
Judge: Hon. Dennis J. Montali

1 I, Michael J. Betz, Esq., declare:

2 1. I am an attorney at law, duly licensed to practice before all the Courts of the State
3 of California. I am a partner at the law firm of Allen Matkins Leck Gamble, Mallory & Natsis,
4 attorneys of record for Defendant John Kontrabecki, in this action. If called as a witness, I could
5 and would testify competently to the matters set forth in this declaration, except for those matters
6 stated upon information and belief, and as for those matters, I believe them to be true.

7 2. Attached hereto as "**Exhibit A**" is a true and correct copy of relevant excerpts
8 from the June 30, 2009, deposition of Paul Riehle, Esq.

9 I declare under penalty of perjury under the laws of the United States of America that
10 the foregoing is true and correct.

11 Executed this 15th day of December, 2009, at San Francisco, California.

12
13 /s/ Michael J. Betz

14 MICHAEL J. BETZ
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EXHIBIT A

1 UNITED STATES BANKRUPTCY COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 --oOo--
4 In re:) Bk. No. 02-30419-11-DM
CENTRAL EUROPEAN INDUSTRIAL) Chapter Number: 11
5 DEVELOPMENT COMPANY, LLC)
dba CEIDCO,)
6)
Debtor,)

7 _____)
In re:) Bk. No. 02-30421-11-DM
8 THE KONTRABECKI GROUP LP,) Chapter Number: 11
)
9 Debtor,)

10 _____)
ARON M. OLINER, et al.,)
)
11 Plaintiffs,)
)
12 vs.) Adv. Proc.
)
No. 03-3264 DM
13 JOHN KONTRABECKI, et al.,)
)
14 Defendants.)
_____)

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17 DEPOSITION OF
18 PAUL RIEHLE

19 _____
20 Tuesday, June 30, 2009

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22
23 REPORTED BY: CYNTHIA A. PACINI, CSR #6117, RMR, CRR
24 (01-420768)

25

1 WDC and OBC to meet debt service come up during the call
2 on the 10th to meet RZB debt service come up, if it did?

3 A. I think it did. I think the notion was that
4 the recapitalization may have been required under Polish
5 law according to Polish bankruptcy lawyers because the
6 first mortgage was due and they didn't have the funds to
7 pay the first mortgage, is my recollection.

8 Q. That's what he told you?

9 A. I believe -- yes.

10 Q. A recapitalization was required or that money
11 was needed for OBC to be compliant?

12 A. I don't recall. I do recall that the notion
13 of funds coming into the company through
14 recapitalization was something that the Polish
15 bankruptcy lawyers had approved.

16 Q. Approved as what?

17 A. As sound, a good idea, compared to my view
18 that it was a bad idea.

19 Q. Good idea from what perspective, do you know?

20 A. I don't know. I don't know. I don't recall.

21 Q. Was one of the concepts that had been explored
22 the filing of US bankruptcies for WDC and OBC at or
23 around that time?

24 A. I can't remember when -- I think that subject
25 did come up at some point, but I can't remember when.

1 A. Can you read that back?

2 Q. Did she ever explain to you what made it okay
3 at any time prior to February 11, if you recall?

4 A. I can't -- I can't remember. I can't -- I'm
5 trying to distinguish between conversations I had with
6 Mr. Kontrabecki, and I know that I've had conversations
7 with Ms. Chipser. I'm just trying to bracket the
8 conversations and separate them out, and I'm not sure
9 that I can.

10 Q. So you don't know -- just to be fair about
11 characterizing -- you don't know whether you, in fact,
12 had conversations with Ms. Chipser about her rationale
13 under bankruptcy law as to why this recap was okay or
14 not, meaning you don't know whether you had them or
15 can't recall; you just don't know which it is?

16 A. I'd have to review my prior testimony. My
17 guess is that I -- that, you know, this is reflected
18 there.

19 Q. It isn't, I don't think. I don't think it
20 was.

21 MR. MOORE: I think it is. He's been asked
22 all these questions before.

23 THE WITNESS: I will say that the
24 recapitalization came up on the call on the 13th. There
25 were three bankruptcy lawyers there, and I said that I

1 CERTIFICATE OF REPORTER

2 I, CYNTHIA A. PACINI, a Certified Shorthand
3 Reporter, hereby certify that the witness in the
4 foregoing deposition was by me duly sworn to tell the
5 truth, the whole truth, and nothing but the truth in the
6 within-entitled cause;

7 That said deposition was taken in shorthand by
8 me, a disinterested person, at the time and place
9 therein stated, and that the testimony of the said
10 witness was thereafter reduced to typewriting, by
11 computer, under my direction and supervision;

12 That before completion of the deposition,
13 review of the transcript [X]was []was not requested.
14 If requested, any changes made by the deponent (and
15 provided to the reporter) during the period allowed are
16 appended hereto.

17 I further certify that I am not of counsel or
18 attorney for either or any of the parties to the said
19 deposition, nor in any way interested in the event of
20 this cause, and that I am not related to any of the
21 parties thereto.

22 DATED: _____, 2009

23

24

CYNTHIA A. PACINI, CSR No. 6117

25

July 7, 2009

Mr. Paul Riehle
c/o Randall G. Block
Sedgwick, Detert, Moran & Arnold
One Market Plaza, Steuart Tower, 8th Floor
San Francisco, CA 94105

Re: Oliner, et al., vs. Kontrabecki, et al.

Dear Mr. Riehle:

Please be advised that the original transcript of your deposition taken June 30, 2009, in the above-entitled matter is available for reading and signing. The original will be held at the offices of:

Merrill Legal Solutions
135 Main Street, 4th Floor
San Francisco, California 94105
(415)357-4300

for thirty (30) days in accordance with the Federal Rules of Civil Procedure, Section 30(e). If you do not sign your deposition within 30 days, it may be used as fully as though signed. If you are represented by counsel in this matter, you may wish to ask your attorney how to proceed. If you are not represented by counsel and wish to review your transcript, please contact our office for a mutually convenient appointment to review your deposition. Thank you for your cooperation in this matter.

Sincerely,

Cynthia A. Pacini, CSR No. 6117

cc: Original transcript
Mark S. Kaufman, Attorney At Law
Robert R. Moore, Attorney At Law
Randall G. Block, Attorney at Law